IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8088 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KHEDA DIST. CO-OP MILK PRODUCERS UNION LTD

Versus

BHAILALBHAI R PARMAR

Appearance:

MR DG CHAUHAN for Petitioner

MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 09/03/2000

ORAL JUDGEMENT

Heard Mr. Chauhan, the learned advocate appearing for the petitioner and Mr. Mishra, the learned advocate appearing for the respondent. Learned advocate Mr. Chauhan has submitted that the award passed by the labour court Nadiad in Reference No. 1096 of 1983 has

been challenged by the petitioner. Under the said award, the labour Court, Nadiad has granted 50 per cent of back wages for the intervening period. According to Mr.Chauhan, the respondent workman has already been reinstated in service on 10th October, 1991 and has retired from service on 30.4.1992 and that the workman has been paid all the difference of salary.

According to Mr.Chauhan, two identical awards were passed by the labour court on the same set of facts in respect of two different workmen and both the said awards were challenged by the petitioner by filing the petition being special civil application No. 8087 of 1989 and 8088 of 1989 i.e. the present petition. According to him, in both the petitions, same and identical reliefs were granted by the labour court.According to him, there is no slightest difference or change between the two awards passed by the labour court, Nadiad. Learned advocate Mr. Chauhan has submitted that the said petition being special civil application no. 8087 of 1989 has been decided by this Court on 26th November, 1993 after hearing the parties and considering the submissions made at the Bar, said petition was partly allowed and the impugned award passed by the labour court Nadiad in Reference (LCN) No. 1078 of 1983 was modified and the respondent workman was reinstated in service with continuity of service but without back wages. It was also directed that the workman shall be entitled to full wages from the date of the award till he has been actually reinstated in service and the amount of wages for the said period was directed to be paid within some stipulated period with a further direction to the petitioner therein that if the amount of wages for the said period is not paid to the respondent workman by that time, then, the respondent workman shall be entitled to interest on the said amount at the rate of 15% p.a. from the date of the said judgment till the payment of the amount.

Mr. Chauhan has submitted that the same order should also be passed in this petition. Learned advocate Mr. Mishra has no objection to such submission made by the learned advocate Mr.Chauhan.

I have gone through the judgment of this court given in special civil application no. 8087 of 1989 dated 26th November, 1993. Identical facts and circumstances were there and the award passed by the labour Court, Nadiad was also based on the same set of facts. Therefore, I am of the opinion that the present petition can be disposed of in terms of the order passed

by this court in special civil application no. 8087 of 1989 on 26th November, 1993.

In the result, this petition is partly allowed. The impugned award passed by the labour court, Nadiad in Reference (LCN) 1096 of 1983 is modified to the extent that the respondent workman shall be reinstated in service with continuity of service, but without back wages. However, it is further directed that the workman shall be entitled to full wages from the date of the award i.e. 26th September,1989 till the date of his actual reinstatement i.e. 10th October, 1991. The amount for the said period shall be paid to the respondent workman latest by 30th April, 2000. If the amount of wages for the aforesaid period is no paid to the respondent workman latest by April 30, 2000, then, same shall carry interest at the rate of 15% p.a. from the date of the judgment till the amount is paid to the respondent workman. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

9.3.2000. (H.K.Rathod,J.)

Vyas